

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
SEPTEMBER 24, 2001
HUGHES AUDITORIUM
6:30 P.M.

CLOSED SESSION

At 5:00 p.m., the regular meeting of the Malibu City Council convened. City Attorney Hogin announced that the purpose of the Closed Session was to discuss matters listed on the posted agenda pursuant to Government Code Sections 54956.9 (a), 54956.8, and 54956.9. The City Council recessed to a closed session.

CALL TO ORDER

Mayor House reconvened the meeting at 6:43 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Joan House, Mayor Pro Tem Jeffrey Jennings, Councilmembers Sharon Barovsky, Thomas Hasse and Ken Kearsley.

ALSO PRESENT: Katie Lichtig, Acting City Manager; Christi Hogin, City Attorney; Barry Hogan, Planning Director; Chuck Bergson, Public Works Director; Rick Morgan, City Engineer; Julia James, Administrative Services Director; Paul Adams, Parks and Recreation Director; Lt. Bradstock; and Lisa Pope, City Clerk

FLAG SALUTE

Councilmember Barovsky led the Pledge of Allegiance.

CLOSED SESSION REPORT

City Attorney Hogin announced that the Council met in Closed Session at 5:00 p.m. for the purpose of discussing matters listed on the posted closed session agenda as follows:

Existing litigation per Government Code Section 54956.9 (a):

1. Antario v. City of Malibu
Los Angeles County Superior Court Case No. BC253990
2. City of Malibu v. California Coastal Commission
Los Angeles County Superior Court Case No. BC230410
3. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)
Ventura County Superior Court Case No. CIV193900

4. Coffman v. City of Malibu
Los Angeles County Superior Court Case No. BC246067
5. Darian v. Accent Builders et al.
United States District Court Case No. 00-10255-FMC(JWJ)
6. Dove, et al. v. Malibu City Council, et al.
Los Angeles County Superior Court Case No. BC254020
7. Gibbs v. City of Malibu
Los Angeles County Superior Court Case No. BS059362
8. Hoffman v. City of Malibu
Los Angeles County Superior Court Case No. SC061012
9. Keach v. City of Malibu
Los Angeles County Superior Court Case No. SS009723
10. Lavine v. City of Malibu
Los Angeles County Superior Court Case No. SS 008071
11. Malibu Township Council v. City of Malibu, et al.
Los Angeles County Superior Court Case No. SC067214
12. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
13. Sierra Club v. City of Malibu
Los Angeles County Superior Court Case No. BS064912
14. Silver v. City of Malibu
Los Angeles County Superior Court Case No. BC255025
15. Trancas Property Owners Association v. City of Malibu
Los Angeles County Superior Court Case No. SC054684

Real Estate negotiation matters pursuant to Government Code Section 54956.8:

16. Property: Tract No. 46964 (5 lots)
City Negotiator: City Attorney

Property Negotiator: D.L. Malibu, Inc.

Anticipated Litigation pursuant to Government Code Section 54956.9:

17. Number of potential cases: 1

City Attorney Hogin reported that the Council discussed the items listed on the Closed Session agenda and no reportable action was taken.

APPROVAL OF AGENDA

MOTION Councilmember Hasse moved and Mayor House seconded a motion to approve the agenda with Items 4.C., 4.D., and 4.E. continued to October 8, 2001; Item 4.F. continued to October 22, 2001; and Item 7.A. continued to October 8, 2001.

Councilmember Kearsley suggested Items 4.C., 4.D. and 4.E., related to slope density, be referred to the Planning Commission or a Council workshop.

Mayor Pro Tem Jennings stated he had no quarrel with conducting a Council workshop. He stated he was reluctant to direct the matter back to the Planning Commission because he felt there was a different way to go and he would like the opportunity to present his ideas.

Councilmember Barovsky suggested a joint Council/Planning Commission workshop.

Mayor House suggested directing staff to set a Council workshop.

The motion carried unanimously.

MOTION Councilmember Hasse moved and Councilmember Kearsley seconded a motion to continue Items 4.C., 4.D. and 4.E. to October 22, 2001. The motion carried unanimously.

By acclamation, the Council directed staff to determine a date for a slope density workshop.

Mayor House announced that the meeting would be adjourned in memory of those involved in the incidents on September 11, 2001.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was posted on September 14, 2001, with the amended agenda posted on September 21, 2001.

ITEM 1 CEREMONIAL/PRESENTATIONS

- A. Proclamation declaring Los Angeles Alzheimer's Association 9th Annual Memory Walk Benefit on October 6, 2001

Mayor House read the proclamation declaring Los Angeles Alzheimer's Association 9th Annual Memory Walk Benefit on October 6, 2001.

- B. Presentation of Malibu Tile to Fred Segal for the 1975 Creation of the Malibu Country Mart and Playground

Mayor House presented a Malibu tile to Fred Segal for the 1975 Creation of the Country Mart and Playground.

Fred Segal thanked the Council for the honor.

- C. Presentation of Malibu Tile to Ruby Fader for 10 Years of Volunteer Service to the City of Malibu

Mayor House presented a City tile to Ruby Fader for 10 years of outstanding service to the City of Malibu.

- D. Presentation by Las Virgenes/Malibu Council of Governments Executive Director Terry Dipple

Terry Dipple, Executive Director of the Las Virgenes/Malibu Council of Governments (COG), provided an update on the COG projects including Watershed Management Area Plan, Highway 101 Corridor Major Investment Study, Highway 101 Emergency Traffic Management Study, Z Traffic Study, Open Space Preservation, Technical Assistance for Highway 101 MIS, and Project Impact.

- E. Proclamation supporting the Chad Foundation for Athletes and Artists

Mayor House read the proclamation supporting the Chad Foundation.

ITEM 2 A. PUBLIC COMMENTS

Rob Bergen thanked the Council for the remembrance service held prior to the Council meeting. He discussed alternative energy. He announced an energy conservation class on September 29, 2001, at Bluffs Park from 9:00 a.m. to 12:00 p.m.

Norm Haynie discussed the Coastal Commission's Draft LCP. He stated he requested a copy of the LCP from the City and was referred to the Coastal Commission. He stated Malibu should disseminate the information. He suggested Malibu organize hearings to discuss the differences between the City and Coastal Commission LCP.

Bob Purvey discussed the Watershed Management Area Plan being developed by the COG. He read a quote from Mark Gold regarding the purpose of wetlands. He explained that removal of pathogens was a function of wetlands.

Dermot Stoker discussed the results of the Parks and Recreation Master Plan. He thanked the Beach Team for their work during the Summer. He suggested the Council try to eliminate aircraft advertising beer and alcohol at the beaches. He presented information on the American Bicycle Association and suggested a BMX bicycle track be installed near the skate park. He indicated support for the bond measure.

B. COUNCIL COMMENTS

Councilmember Barovsky encouraged the public attend the workshop on energy saving devices. She agreed that the City should provide copies of the Coastal Commission's LCP. She discussed the Coastal Commission's Draft LCP.

Councilmember Kearsley discussed recent events in America. He commended the Malibu High and Middle School Ensemble. He discussed the Coastal Commission's Draft LCP. He referenced a letter from the MTC to the Council dated May 28, 2001.

Councilmember Hasse thanked the Council for adjourning in memory of his dad and for those sending him well wishes.

Mayor Pro Tem Jennings stated the City should have copies of the Coastal Commission Draft LCP available for purchase. He clarified his statements regarding wetlands in the Civic Center area. He discussed recent meetings of the Land Use Subcommittee.

Mayor House welcomed Councilmember Hasse back. She thanked those who participated in the candlelight ceremony. She suggested the Coastal Commission Draft

LCP be available for purchase by the community. She suggested hearings be arranged to discuss the LCP.

CONSENSUS

By consensus, the Council concurred to have LCP copies available for purchase at City Hall and to direct staff to set hearings.

CONSENSUS

By consensus, the Council directed staff to evaluate the possibility of a BMX track near the skate park facility.

Acting City Manager Lichtig indicated that the Parks and Recreation Commission had discussed the BMX track and information could come back at the next quarterly meeting.

Acting City Manager Lichtig stated Federal Aviation Administration had been contacted regarding low flying aircraft and information would be provided to the Council as soon as possible.

Mayor House expressed frustration with the Coastal Commission LCP. She discussed recent events she had attended.

ITEM 3 CONSENT CALENDAR

Councilmember Kearsley pulled Item 3.B.5.

MOTION Councilmember Hasse moved and Mayor House seconded a motion to approve the consent calendar with the exception of Item 3.B.5. The motion carried unanimously with Councilmember Hasse abstaining from Item 3.A.2.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 229, AN ORDINANCE OF THE CITY OF MALIBU REPEALING CERTAIN SUPERCEDED ORDINANCES AND MAKING CERTAIN CHANGES IN PREPARATION FOR THE ADOPTION OF THE NEWLY CODIFIED MALIBU MUNICIPAL CODE
Staff recommendation: Conduct the second reading and adopt Ordinance No. 229.
2. Resolutions for Appeal No. 01-002 - An application to construct a new single-family residence located at 32804 Pacific Coast Highway (Kempin)
Staff recommendation: Adopt Resolution Nos. 01-15 (A-F) as approved by the City Council.

B. New Items

1. Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve Warrants

Staff recommendation: To allow and approve warrant demand numbers 17430 through 17510 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 242 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$1,057,106.03.

3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on March 9, 2001 relating to the Landslide Road Failure at Corral Canyon

Staff recommendation: Re-affirm the State of Local Emergency by minute order.

4. Approval of Minutes

Staff recommendation: Approve City Council meeting minutes of July 9 and September 10, 2001.

5. Selection of City Biologist

Staff recommendation: Select Impact Sciences as the City's Biologist and authorize the City Manager to sign the professional services agreement.

6. Acceptance of Work and Authorization to Issue a Notice of Completion for Cliffside Drive Parking Improvements (CIP #00-11)

Staff recommendation: Accept the work performed by Burns-Pacific Construction, Inc. on the Cliffside Drive Parking Improvements (CIP #00-11) as complete and authorize the Director of Public Works to record the Notice of Completion and to release all surety agreements and bonds.

7. Request For Proposals to provide Digital Aerial Photos and Topographic Services

Staff recommendation: Approve the Request for Proposals and authorize staff to solicit proposals for the acquisition of digital aerial photos (orthophoto and topographic imagery) for the City of Malibu.

8. Grant Request to the California Department of Parks and Recreation, Proposition 12 - Las Flores Creek Park Trails

Staff recommendation: Adopt Resolution No. 01-49 approving the application for grant funding from the California Department of Parks and Recreation - Proposition 12 to pay for the construction and reconstruction of trails in the Las Flores Creek Park.

9. Grant Request to the California Department of Parks and Recreation, Proposition 12 - Charmlee Wilderness Park Trails
Staff recommendation: Adopt Resolution No. 01-50 approving the application for grant funding from the California Department of Parks and Recreation - Proposition 12 to pay for the construction and reconstruction of trails in Charmlee Wilderness Park.
10. Grant of funds from the Department of Water Resources, Urban Streams Restoration Program to be used for the Las Flores Creek Park Restoration project
Staff recommendation: Adopt Resolution No. 01-51 approving the application for grant funding from the Department of Water Resources Urban Streams Program for the restoration of Las Flores Creek and habitat in the City of Malibu Las Flores Creek Park.

ITEM 3.B.5. Selection of City Biologist

Staff recommendation: Select Impact Sciences as the City's Biologist and authorize the City Manager to sign the professional services agreement.

Councilmember Kearsley asked how many applications were received. Planning Director Hogan stated 14 packets were sent out and two applications were submitted. Councilmember Kearsley asked how the archeology process was working. Planning Director Hogan stated it was working well but would be difficult to implement for a biologist.

MOTION Councilmember Kearsley moved and Mayor House seconded a motion to select Impact Sciences as the City's Biologist and authorize the City Manager to sign the professional services agreement. The motion carried unanimously.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

A. Approval for Use of Supplemental Law Enforcement Services Grant (Brulte) Funds for Fiscal Year 2001-2002

Staff recommendation: Authorize the recommendations of the Los Angeles County Sheriff's Department for use of the Brulte grant funds for the 2001-2002 fiscal year.

Administrative Services Director James presented the staff report.

Councilmember Barovsky asked if Brulte funds could only be used for the Sheriff's Department. Administrative Services Director James indicated that to be correct.

Mayor Pro Tem Jennings asked how vital intervention and directional alternatives related to the J-Team. Lt. Bradstock explained the Vital Intervention program and indicated it was designed for persons starting to have problems. He stated the J-Team officers were not involved in that program.

Mayor House asked if the City received 16 hours per week of motorcycle enforcement. Lt. Bradstock stated yes. Mayor House stated motorcycle officers were very productive and more time should be considered. Lt. Bradstock explained the recent implementation of the motorcycle officers.

Councilmember Barovsky expressed concern that the Sheriff's were dealing with youngsters and they were not appropriately trained for that. She suggested professionals take over some of the duties. Lt. Bradstock stated the J-Team was involved with the schools. Councilmember Barovsky suggested the J-Team meet with school counselors to coordinate efforts. Lt. Bradstock stated he would ensure additional training.

MOTION Councilmember Hasse moved and Councilmember Kearsley seconded a motion to authorize the recommendations of the Los Angeles County Sheriff's Department for use of the Brulte grant funds for the 2001-2002 fiscal year. The motion carried unanimously.

B. Approval for Use of Local Law Enforcement Block Grant (LLEBG) Funds for Fiscal Year 2001-2002

Staff Recommendation: Authorize the recommendation of the Los Angeles County Sheriff's Department Advisory Board to continue funding of the Juvenile Intervention Team member for the 2001-2002 fiscal year.

Administrative Services Director James presented the staff report.

Councilmember Barovsky asked if LLEBG funds could be used for a full-time motorcycle officer. Lt. Bradstock stated he had verified that the Council could amend the allocation of funds. Acting City Manager Lichtig explained that the funding source had an advisory board and amendments would have to be approved by the board.

Mayor House asked about the 10% city match. Administrative Services Director James explained that the grant funding required a minimum 10% match, with the remainder coming from the General Fund money. Mayor House asked how much

time the City was provided by the J-Team. Lt. Bradstock explained that the City would receive 1/3 of the 1 deputy's time.

MOTION Councilmember Hasse moved and Mayor Pro Tem Jennings seconded a motion to authorize the recommendation of the Los Angeles County Sheriff's Department Advisory Board to continue funding of the Juvenile Intervention Team member for the 2001-2002 fiscal year. The motion carried unanimously.

Items 4.C., 4.D., and 4.E. to be heard concurrently.

- C. Zone Text Amendment 01-006 - An Amendment of the Property Development and Design Standards Section 9.3.03 to amend slope/density requirements for properties zoned RR-1, RR-2, RR-5, RR-10, and RR-20. Location: Citywide
Staff recommendation: Introduce on first reading Ordinance No. 231, an ordinance adopting Citywide Zone Text Amendment No. 01-006 amending Section 9.3.03 of the Malibu Municipal Code regarding slope/density requirements.

This item was continued to October 22, 2001 upon approval of the agenda.

- D. General Plan Amendment No. 01-001 - An Amendment of the Land Use Element text to revise Land Use Implementation Measure 26 regarding Slope Density and /Hillside Management

Staff recommendation: Adopt Resolution No. 01-53 amending the Malibu General Plan Land Use Element Land Use Implementation Measure 26 regarding slope density and hillside management.

This item was continued to October 22, 2001 upon approval of the agenda.

- E. Amendment of the Subdivision Ordinance - An amendment of Chapter 10, Sections 10.3.01 Map Number, Section 10.3.10 Subdivision Review, Chapter 10.6.00 Miscellaneous Applications (Lot Line Adjustment Procedure), Section 10.6.04 Merger of Parcels; Requirements, Section 10.6.05 Other Requirements; Effective Date of Merger, Section 10.8.02 Slope/Density Requirements, and Section 10.8.03 Procedure (for slope/density calculation). Applicant: City of Malibu. Location: Citywide

Staff recommendation: Introduce on first reading Ordinance No. 232, an ordinance adopting an amendment to Article X of the Malibu Municipal Code amending Sections 10.3.01 Map Number, Section 10.3.10 Subdivision Review, Chapter

10.6.00 Miscellaneous Applications (Lot Line Adjustment Procedure), Section 10.6.04 Merger of Parcels; Requirements, Section 10.6.05 Other Requirements; Effective Date of Merger, Section 10.8.02 Slope/Density Requirements, and Section 10.8.03 Procedure (for slope/density calculation)

This item was continued to October 22, 2001 upon approval of the agenda.

- F. Appeal No. 01-011 - An appeal of the Planning Commission's decision to deny an application for a variance request from Chapter 9.3.00, Property Development and Design Standards of the Interim Zoning Ordinance to increase the allowable wall height in the required front yard and interior side yard above the maximum 6-foot height (VAR 01-002), as well as for denying the alternative "grandfathering" determination pursuant to Chapter 9.4.00, Section 9.4.01A and E3. Applicant: Inshallah Trust (Location: 25142 Pacific Coast Highway; Gross Acreage: 1.7 acres)
Staff recommendation: Adopt Resolution No. 01-52, a resolution of the City of Malibu upholding Planning Commission Resolution No. 01-030 and denying Variance No. 01-002.

This item was continued to October 22, 2001 upon approval of the agenda.

ITEM 5 OLD BUSINESS

- A. Alternative Voting Systems
Staff recommendation: Direct staff as deemed appropriate.

City Clerk Pope presented the staff report.

Debra Seiler of Global Elections provided a demonstration of a touch screen voting machine.

Mayor Pro Tem Jennings asked how a provisional ballot was created. Ms. Seiler explained that a provisional ballot could be voted on the screen or with a paper ballot. She suggested paper ballots be used at the polling place for provisional and mail ballots. She explained that an optical scan tabulator was used for counting absentee and provisional ballots.

Councilmember Barovsky discussed rumors in last election that extra votes were cast. She discussed voter registration inaccuracies.

Ms. Seiler stated the cost to implement touch screen voting would be well under \$200,000. She suggested a creative approach be used to finance elections.

Councilmember Barovsky asked how the system was utilized in case of power failure. Ms. Seiler explained that each unit had up to 3 hours of voting on a battery backup.

Councilmember Hasse discussed the check-in procedure for voters.

Mayor Pro Tem Jennings asked about the voting machine activation device. Ms. Seiler explained the card activation device.

Mayor Pro Tem Jennings asked if there was an actual ballot. Ms. Seiler explained that a picture of the ballot was captured on the hard drive and removable medium.

Councilmember Hasse asked the touch screen comparison for chads. Ms. Seiler stated a close race would occur with paper ballots.

Ms. Seiler suggested the Council work with another city with an election at a different time.

Councilmember Hasse asked how most people would vote in 10 years. Ms. Seiler stated there was no limitation as to what the system could handle.

Glenn Sailer, Martin & Chapman, election vendor, provided examples of various ballots. He presented an overview of Opto-Mark ballots. He explained poll worker training.

Mayor House asked what was done if a voter mis-marked the Opto-mark ballot. Mr. Sailer stated the Election Code allowed for a person to receive up to three ballots if there was a voting error.

Councilmember Hasse asked the chad equivalent for Opto-mark. Mr. Sailer stated half filled circles would be read and manual recounts would resolve other unclear votes.

Mayor House suggested the matter be placed on the next quarterly meeting agenda.

MOTION Councilmember Barovsky moved and Councilmember Kearsley seconded a motion to continue the matter to the October 24, 2001 Quarterly meeting. The motion carried unanimously.

ITEM 6 NEW BUSINESS

A. Proposed Wastewater Management Action Plan

Staff recommendation: 1) Review and approve the general direction, goals and elements of the proposed Wastewater Management Action Plan; and 2) Direct staff to continue to develop the specific elements of the Action Plan and deliver those elements to Council in a timely manner for review, possible approval and codification.

This item was continued to October 8, 2001 upon approval of the agenda.

ITEM 7 COUNCIL ITEMS

A. Appointment by Councilmember Hasse to the Malibu Trails Master Plan Advisory Committee (Councilmember Hasse)

Recommendation: Councilmember Hasse to make an appointment to the Trails Master Plan Advisory Committee.

This item was continued to October 8, 2001 upon approval of the agenda.

ADJOURN At 8:48 p.m., Councilmember Hasse moved and Councilmember Kearsley seconded a motion to adjourn in memory of the victims of the terrorist attacks on September 11, 2001. The motion carried unanimously.

Approved and adopted by the City Council of the
City of Malibu on October 8, 2001.

JOAN HOUSE, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)